

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ROBERT E. SMITH,

Plaintiff,

Case. No. 17-11848

v.

Honorable Thomas L. Ludington
Magistrate Judge Stephanie D. Davis

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

**ORDER ADOPTING REPORT & RECOMMENDATION, GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT, DENYING PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT, AND AFFIRMING THE DECISION OF THE
COMMISSIONER**

Plaintiff filed an application for supplemental security income on August 4, 2014, alleging a disability onset date of January 1, 2014. Tr. 21. The application was initially denied by the Commissioner on December 8, 2014. *Id.* Plaintiff requested a hearing. On February 19, 2016, Plaintiff appeared with counsel before Administrative Law Judge ("ALJ") Carol Guyton who considered the case de novo. Tr. 21–32. In a decision dated March 2, 2016, the ALJ found that plaintiff was not disabled. Tr. 32. Plaintiff requested a review of this decision. Tr. 15-6. On April 10, 2017, the ALJ's decision became the final decision of the Commissioner when the Appeals Council denied Plaintiff's request for review. Tr. 1-5; *Wilson v. Comm'r of Soc. Sec.*, 378 F.3d 541, 543–44 (6th Cir. 2004). Plaintiff filed for judicial review of the final decision on June 10, 2017. ECF No. 1. The matter was referred to Magistrate Judge Stephanie Dawkins Davis. ECF No. 4. The parties filed cross motions for summary judgment. ECF Nos. 16, 17.

On August 28, 2018, Judge Davis issued a report finding that the ALJ'S decision that Plaintiff is not disabled was supported by substantial evidence. ECF No. 19. Accordingly, Judge

Davis recommended that the Court grant Defendant's motion for summary judgment, deny Plaintiff's motion for summary judgment, and affirm the decision of the Commissioner.

Although the magistrate judge's report explicitly states that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither party has filed any objections. The election not to file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 19, is **ADOPTED**.

It is further **ORDERED** that Plaintiff's Motion for Summary Judgment, ECF No. 16, is **DENIED**.

It is further **ORDERED** that Defendant's Motion for Summary Judgment, ECF No. 17, is **GRANTED**

It is further **ORDERED** that the findings of the Commissioner are **AFFIRMED**.

It is further **ORDERED** that this case is **DISMISSED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: September 18, 2018

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 18, 2018.

s/Kelly Winslow
KELLY WINSLOW, Case Manager